

MEMORANDUM OF AGREEMENT BETWEEN
THE DEPARTMENT OF CHILDREN AND FAMILIES
AND
THE UNIVERSITY OF CONNECTICUT HEALTH CENTER

WHEREAS, the Department of Children and Families (DCF) is collaborating with the University of Connecticut Health Center (UCHC) and its technology partner, Akaza Research of Cambridge, Massachusetts (Akaza) on the proposed Connecticut Health Information Network (CHIN); and

WHEREAS, the purpose of CHIN is to integrate and provide secure access to both intra-agency and inter-agency data that is stored in multiple databases throughout the state in order to promote efficacious and efficient service provision to the residents of Connecticut receiving these services; and

WHEREAS, CHIN will progress through various project life cycle phases that build and test processes for the identification of individuals and their service histories both within and across agencies participating in CHIN and identify barriers to integration of said information; and

WHEREAS, prior to any production release of CHIN, the collaboration with UCHC will require DCF to share confidential information with UCHC as a business associate of DCF concerning persons receiving services from DCF whose personal health and health-related information is maintained in DCF's LINK data system, for purposes of assisting DCF with data analysis, utilization review and quality assurance activities; and

WHEREAS, a separate Memorandum of Agreement will be entered into between DCF and the UCHC prior to the start of the production phase of CHIN that shall address DCF's participation in CHIN as an operational information network; and

WHEREAS, DCF and UCHC are committed to compliance with all applicable state and federal laws concerning the use and disclosure of confidential information, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder;

NOW, THEREFORE, in consideration of the mutual promises contained herein, DCF and UCHC agree as follows:

HIPAA BUSINESS ASSOCIATE AGREEMENT

UCHC is required to safeguard the use, publication, and disclosure of all information received from DCF under this Memorandum in accordance with all applicable federal and state laws regarding confidentiality, which includes but is not limited to the requirements of the HIPAA, more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E.

DCF is a "covered entity" as that term is defined in 45 C.F.R. § 160.103.

UCHC, on behalf of DCF, performs functions that involve the use or disclosure of "individually identifiable health information," as that term is defined in 45 C.F.R. § 160.103.

UCHC is a "business associate" of DCF, as that term is defined in 45 C.F.R. § 160.103.

UCHC and DCF agree to the following in order to secure compliance with the Health Insurance Portability and Privacy Act of 1996 ("HIPAA"), more specifically with the Privacy and Security Rules at 45 C.F.R. Part 160 and Part 164, subparts A, C, and E:

I. Definitions

- A. Business Associate. "Business Associate" shall mean UCHC.
- B. Covered Entity. "Covered Entity" shall mean DCF .
- C. Designated Record Set. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.
- D. Individual. "Individual" shall have the same meaning as the term "individual" in 45 C.F.R. § 160.103 and shall include a person who qualifies as a personal representative as defined in 45 C.F.R. § 164.502(g).
- E. Privacy Rule. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. part 160 and parts 164, subparts A and E.
- F. Protected Health Information. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 C.F.R. § 160.103, limited to information created or received by the Business Associate from or on behalf of the Covered Entity.
- G. Required by Law. "Required by Law" shall have the same meaning as the term "required by law" in 45 C.F.R. § 164.103.
- H. Secretary. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his designee.

I. More Stringent. "More stringent" shall have the same meaning as the term "more stringent" in 45 C.F.R. § 160.202.

J. Section of MOA. "(T)his Section of the MOA" refers to the HIPAA Provisions stated herein, in their entirety.

K. Security Incident. "Security Incident" shall have the same meaning as the term "security incident" in 45 C.F.R. § 164.304.

L. Security Rule. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. part 160 and part 164, subparts A and C.

II. Obligations and Activities of Business Associate

A. Business Associate agrees not to use or disclose PHI other than as permitted or required by this Section of the MOA or as Required by Law.

B. Business Associate agrees to:

1. Use appropriate safeguards to prevent use or disclosure of PHI other than as provided for in this Section of the MOA.

2. Use administrative, physical and technical safeguards as described in the Security Rule that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic protected health information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

Such safeguards shall include, but not be limited to, the ability to statistically verify the de-identification of any data to be made available to third-party requesters in any later phases of CHIN.

C. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by Business Associate in violation of this Section of the MOA.

D. Business Associate agrees to report to Covered Entity any use or disclosure of PHI not provided for by this Section of the MOA or any security incident of which it becomes aware.

E. Business Associate agrees to insure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Business Associate, on behalf of the Covered Entity, agrees to the same restrictions and conditions that apply through this Section of the MOA to Business Associate with respect to such information.

F. Business Associate agrees to provide access, at the request of the Covered Entity, and in the time and manner agreed to by the parties, to PHI in a Designated Record Set,

to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524

G. Business Associate agrees to make any amendments to PHI in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of the Covered Entity, and in the time and manner agreed to by the parties.

H. Business Associate agrees to make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by, Business Associate on behalf of Covered Entity, available to Covered Entity or to the Secretary in a time and manner agreed to by the parties or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy Rule.

I. Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

J. Business Associate agrees to provide to Covered Entity, in a time and manner agreed to by the parties, information collected in accordance with paragraph I of this Section of the MOA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. § 164.528.

K. Business Associate agrees to comply with any state law that is more stringent than the Privacy Rule.

III. Permitted Uses and Disclosures by Business Associate

A. General Use and Disclosure Provisions: Except as otherwise limited in this Section of the MOA, the Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in this MOA, provided that such use or disclosure would not violate the Privacy Rule or the Security Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

B. Specific Use and Disclosure Provisions:

1. Except as otherwise limited in this Section of the MOA, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate.

2. Except as otherwise limited in this Section of the MOA, Business Associate may disclose PHI for the proper management and administration of Business Associate, provided that disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Business

Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

3. Except as otherwise limited in this Section of the MOA, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 C.F.R. § 154.514(e)(2)(i)(B)

IV. Obligations of Covered Entity

A. Covered Entity shall notify Business Associate of any limitations in its notice of privacy practices of Covered Entity, in accordance with 45 C.F.R. 164.520 or to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

B. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of such PHI.

C. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 C.F.R. § 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

V. Permissible Requests by Covered Entity

Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by the Covered Entity, except that Business Associate may use and disclose PHI for data aggregation, and management and administrative activities of Business Associate, as permitted under this Section of the MOA.

VI. Term and Termination

A. Term. The Term of this Section of this MOA shall be effective as of the date the MOA is effective and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

B. Termination for Cause. Upon the Covered Entity's knowledge of a material breach by the Business Associate, the Covered Entity shall either:

1. Provide an opportunity for the Business Associate to cure the breach or end the violation and terminate the MOA if the Business Associate does not cure the breach or end the violation within the time specified by the Covered Entity; or

2. Immediately terminate the MOA if the Business Associate has breached a material term of this Section of the MOA and cure is not possible; or

3. If neither termination nor cure is feasible, the Covered Entity shall report the violation to the Secretary.

C. Effect of Termination.

1. Except as provided in paragraph (2) of this subsection C, upon termination of this MOA, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI

2. In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon documentation by Business Associate that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Section of the MOA to such PHI and limit further uses and disclosures of PHI to those purposes that make return or destruction infeasible, for as long as Business Associate maintains such PHI. Infeasibility of the return or destruction of PHI includes, but is not limited to, requirements under state or federal law that the Business Associate maintains or preserves the PHI or copies thereof.

D. "No Fault" Termination

This MOA shall remain in full force and effect unless terminated in accordance with subsections A and B of this section or unless either the Covered Entity or Business Associate provides written notice to the other organization ninety (90) days or more prior to a termination date. Subsection A and C shall remain in full force in the event of the exercise of such "No Fault" termination.

VII. Miscellaneous Provisions

A. Regulatory References. A reference in this Section of this MOA to a section in the Privacy Rule or its rules and regulations means the section as in effect or as amended.

B. Amendment. The Parties agree to take such action as is necessary to amend this Section of the MOA from time to time as is necessary for Covered Entity to comply with requirements of the Privacy Rule and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

C. Survival. The respective rights and obligations of Business Associate under Section VI, Subsection C of this Section of the Contract shall survive the termination of this MOA.

D. Effect on Contract. Except as specifically required to implement the purposes of this Section of the MOA, all other terms of the MOA shall remain in force and effect.

E. Construction. This Section of the MOA shall be construed as broadly as necessary to implement and comply with the Privacy and Security Rules. Any ambiguity in this Section of the MOA shall be resolved in favor of a meaning that complies, and is consistent with, the Privacy and Security Rules.

Disclaimer. Neither party makes any warranty or representation that compliance with this Section of the MOA will be adequate or satisfactory for the other party's own purposes. Neither party shall be liable to the other party for any claim, loss or damage related to or arising from the unauthorized use or disclosure of PHI by the party or any of its officers, directors, employees, contractors or agents, or any third party to whom the party has disclosed PHI records pursuant to paragraph II D of this Section of the MOA. Each party is solely responsible for all decisions made, and actions taken, by it regarding the safeguarding, use and disclosure of PHI within its possession, custody or control.

OTHER CONFIDENTIALITY ASSURANCES

1. For purposes of this section, "Confidential Information" means any and all individually identifiable information in whatever form that DCF or its employees have disclosed or hereafter disclose to UCHC concerning persons receiving services from DCF whose personal information is maintained in DCF's LINK data system. Confidential Information includes, but is not limited to, case narratives, investigation protocols, health-related information, evaluations, provider reports and other client information.
2. UCHC further agrees that:
 - (a) UCHC, its employees, agents, and authorized representatives, will hold in confidence DCF's Confidential Information;
 - (b) UCHC, its employees, agents, and authorized representatives, will not disclose any of DCF's Confidential Information to any person or entity without the prior written consent of DCF;
 - (c) UCHC, its employees, agents, and authorized representatives, shall use DCF's Confidential Information only for the purpose of providing contracted for services for DCF in accordance with this MOA and shall not use the Confidential Information for any other purpose;
 - (d) UCHC, its employees, agents, and authorized representatives, will not copy, duplicate, record or otherwise reproduce any part of DCF's Confidential Information without the prior consent of DCF and any reproduction of DCF's Confidential Information will be deemed to be the sole property of DCF.
 - (e) UCHC, its employees, agents, and authorized representatives, shall secure DCF's Confidential Information in a manner that prevents the unauthorized use, disclosure, publication, reproduction or dissemination of DCF's Confidential Information that is in its possession; and

(f) UCHC, its employees, agents, and authorized representatives, will return all of DCF's Confidential Information to DCF upon demand by DCF, and destroy all copies, reproductions, and other tangible embodiments of DCF's Confidential Information in their possession upon DCF's demand.

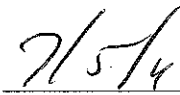
3. All Confidential Information disclosed by DCF to UCHC remains the property of DCF and no license or other rights in the Confidential Information is granted by this MOA.
4. This Confidentiality and Nondisclosure Agreement shall survive the termination of this MOA between DCF and UCHC.
5. UCHC agrees to hold in confidence all confidential information except:
 - a) information that at the time of disclosure is in the public domain;
 - b) information that after disclosure by a person or entity other than DCF is published or otherwise becomes part of the public domain through no fault of the Project Director;
 - c) information that was in the possession of the Project Director at the time of disclosure and was not acquired from DCF under an obligation of confidence; or
 - d) information that is required to be disclosed by law.

MISCELLANEOUS PROVISIONS

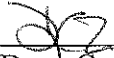
1. This MOA shall be enforced and construed in accordance with the laws of the State of Connecticut.
2. This MOA shall be effective upon execution by both parties. This MOA shall remain in full force and effect until 6/30/12 unless extended in writing or terminated in accordance with the terms of this MOA.
3. The parties may extend the effective date of this MOA or otherwise amend or modify this MOA only in writing signed by both parties. Either party may terminate this Agreement upon ninety (90) days prior written notice to the other party.

DEPARTMENT OF CHILDREN AND FAMILIES

By: 
Joette Katz
Commissioner


Date

UNIVERSITY OF CONNECTICUT HEALTH CENTER

By: 
Dana Carroll
Director, Office of Research
And Sponsored Programs

7.12.2011
Date